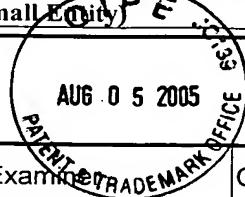


COMBINED TRANSMITTAL OF APPEAL BRIEF TO THE BOARD OF PATENT  
APPEALS AND INTERFERENCES & PETITION FOR EXTENSION OF TIME  
UNDER 37 C.F.R. 1.136(a) (Small Entity)

Docket No.  
A-7942

In Re Application Of: Toshio HARIMA



Application No. 10/625,531	Filing Date June 24, 2003	Examiner Bumgarner	Customer No. 20741	Group Art Unit 3732	Confirmation No. 8157
-------------------------------	------------------------------	-----------------------	-----------------------	------------------------	--------------------------

Invention: ORTHODONTIC WIRE RETAINER

COMMISSIONER FOR PATENTS:

This is a combined Transmittal of Appeal Brief to the Board of Patent Appeals and Interferences and petition under the provisions of 37 CFR 1.136(a) to extend the period for filing an Appeal Brief.

Applicant(s) hereby request(s) an extension of time of (check desired time period):

One month       Two months       Three months       Four months       Five months

from: July 25, 2005      Date      until: August 25,2005      Date

The fee for the Appeal Brief and Extension of Time has been calculated as shown below:

Fee for Appeal Brief: \$250.00

Fee for Extension of Time: \$60.00

**TOTAL FEE FOR APPEAL BRIEF AND EXTENSION OF TIME:** \$310.00

The fee for the Appeal Brief and extension of time is to be paid as follows:

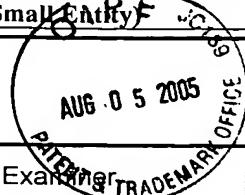
- A check in the amount of \$310.00 for the Appeal Brief and extension of time is enclosed.
- Please charge Deposit Account No. \_\_\_\_\_ in the amount of \_\_\_\_\_
- The Director is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 08-2455
  - Any additional filing fees required under 37 C.F.R. 1.16.
  - Any patent application processing fees under 37 CFR 1.17.
- If an additional extension of time is required, please consider this a petition therefor and charge any additional fees which may be required to Deposit Account No. 08-2455
- Payment by credit card. Form PTO-2038 is attached.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

COMBINED TRANSMITTAL OF APPEAL BRIEF TO THE BOARD OF PATENT  
APPEALS AND INTERFERENCES & PETITION FOR EXTENSION OF TIME  
UNDER 37 C.F.R. 1.136(a) (Small Entity)

Docket No.  
A-7942

In Re Application Of: Toshio HARIMA



Application No. 10/625,531	Filing Date June 24, 2003	Examiner Bumgarner	Customer No. 20741	Group Art Unit 3732	Confirmation No. 8157
-------------------------------	------------------------------	-----------------------	-----------------------	------------------------	--------------------------

Invention: ORTHODONTIC WIRE RETAINER

TO THE COMMISSIONER FOR PATENTS:

This combined Transmittal of Appeal Brief to the Board of Patent Appeals and Interferences and petition for extension of time under 37 CFR 1.136(a) is respectfully submitted by the undersigned:

Signature

Dated: August 5, 2005

Christopher J. McDonald

Reg. 41,533

Hoffman, Wasson & Gitler, P.C.

2461 South Clark Street

Crystal Center 2 - Suite 522

Arlington, VA 22202

703.415.0100

**Certificate of Transmission by Facsimile\***

I certify that this document and authorization to charge deposit account is being facsimile transmitted to the United States Patent and Trademark Office (Fax no. ) on

(Date)

Signature

Typed or Printed Name of Person Signing Certificate

**Certificate of Mailing**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a) on

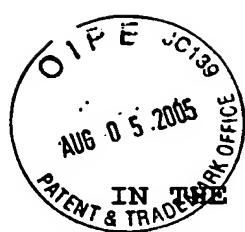
(Date)

Signature of Person Mailing Correspondence

Typed or Printed Name of Person Mailing Correspondence

\*This certificate may only be used if paying by deposit account.

CC:



UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:  
**Toshio HARIMA**

Serial No: **10/625,531**

Examiner: **Bumgarner**

Filed : **June 24, 2003**

Group Art Unit: **3732**

For : **ORTHODONTIC WIRE RETAINER**

**APPLICANT'S APPEAL BRIEF**  
**UNDER 35 U.S.C. §41.37**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**(1) REAL PARTY IN INTEREST**

The real party in interest is the inventor, Toshio Harima.

**(2) RELATED APPEALS AND INTERFERENCES**

There are no related appeals and interferences.

**(3) STATUS OF CLAIMS**

Claims 1-10 are pending. All claims are rejected and appealed.

**(4) STATUS OF AMENDMENTS**

An Amendment After Final Rejection was filed on April 11, 2005. The amendment is entered for purposes of appeal.

**(5) SUMMARY OF CLAIMED SUBJECT MATTER**

An orthodontic wire retainer is applied to a dental arch following an orthodontic treatment. The wire retainer has a first wire **11**, extending along the posterior surface of the dental arch **10**, a second wire **12**, extending in a loop along the anterior surface of the dental arch **10**, and a third wire **13**, fitting between a bicuspid tooth **20** and a premolar **30** and attached to the first and second wires **11, 12**. Once joined, the first, second and third wires form an integral bridge **14**, providing resilient support for the arch. The support forms a dental arch bracing appliance, transmitting orthodontic pressure. To further prevent sinking of the wire retainer, a wire clasp **16** lays along the buccal surface of the premolar, as shown in Figure 3. As seen in this figure, the wire clasp has a general W-shape when seen from the side. The wire clasp **16** is attached to the first metal wire **11** to sustain strength of the wire retainer. The wire clasp **16** holds both the buccal surface and lingual surface of the premolar and prevents sinking of the first metal wire. In addition to the wire clasp **16**, a wire rest **17** rests upon the premolar **40**. The wire rest attaches to the first metal wire **11** and prevents elongation of the premolar and sinking of the wire retainer. The wire rest is most clearly seen in Figure 4.

**(6) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

- 1) Claims 1-10 rejected under 35 USC 112, second paragraph as failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
- 2) Claims 1-5, 7, 8 and 10 rejected as anticipated by US patent 4,725,230 (Harima).
- 3) Claims 6 and 9 rejected as being obvious over Harima.

**(7) ARGUMENT**Rejection under 35 USC 112, second paragraph

Claims 1-10 are rejected as being indefinite, as the Examiner does not see how the wire rest is spaced from the end of the first wire.

Attached to this response is an annotated Figure 2 showing the claimed elements. Seen in this view is the first wire 11 extending past the two molars 40. The end of the first wire is spaced near the second molar. The wire rest, extending from the first wire 11, is shown as positioned between the premolar 30 and first molar. Therefore, the rest 17, while extending from the first wire, is spaced from the end of the first wire, as is claimed.

Rejection as anticipated under 35 USC 102(b) by US patent 4,725,230

The Examiner rejects claims 1-5, 7, 8 and 10 as being anticipated by U.S. Patent 4,725,230 (Harima). The retainer disclosed by Harima does not have a wire rest meeting this limitation of claim 1. In the rejection, the Examiner states that Figure 1 of Harima shows a wire rest spaced from the end of the first wire, having a first section attached to the first wire and extending toward the second wire and being L-shaped. No reference numerals are provided in the rejection and no such structure is seen by Applicant in Figure 1.

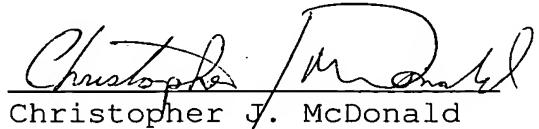
Rejection of claims 6 and 9 under 35 USC 103(a) by US patent 4,725,230.

The Examiner rejects claims 6 and 9 as obvious over Harima and states that it would have been obvious to have the

second section of the L-shaped wire rest extend toward the third wire. While the structure relied upon by the Examiner as the wire rest is not clear to applicant, there is no teaching reference to support the modification proposed by the Examiner.

It is respectfully requested that the Examiner's rejections be reversed and the claims allowed.

Respectfully submitted,



Christopher J. McDonald  
Reg. 41,533

August 3, 2005  
HOFFMAN, WASSON & GITLER, PC  
2461 South Clark Street  
Suite 522  
Arlington, VA 22202  
(703) 415-0100

**CLAIMS APPENDIX**

1. An orthodontic wire retainer, comprising  
a first metal wire for conforming to the posterior  
surface of a dental arch;

    a second metal wire for conforming to the anterior  
surface of the dental arch;

    a pair of third metal wires extending between the  
first metal wire and second metal wire;

    said third metal wires attached to said first and  
second metal wires to form an annular bridge providing a  
resilient support for teeth along the dental arch;

    a wire rest extending from said first wire for  
resting upon the top surface of the dental arch, said wire rest  
spaced from the end of the first wire.

2. The orthodontic wire retainer of claim 1, further  
comprising a wire clasp.

3. The orthodontic wire retainer of claim 2, wherein  
said wire clasp is W-shaped.

4. The orthodontic wire retainer of claim 1, wherein  
said wire rest is L-shaped.

5. The orthodontic wire retainer of claim 1, wherein  
said wire rest has a first section attached to said first wire  
and extending toward said second wire.

6. The orthodontic wire retainer of claim 5, wherein  
said wire rest has a second section attached to said first  
section and extending toward said third wire.

7. The orthodontic wire retainer of claim 1, further comprising

a second wire rest extending from said first wire for resting upon the top surface of the dental arch, said second wire rest spaced from the end of the first wire.

8. The orthodontic wire retainer of claim 7, wherein said second wire rest has a first section attached to said first wire and extending toward said second wire.

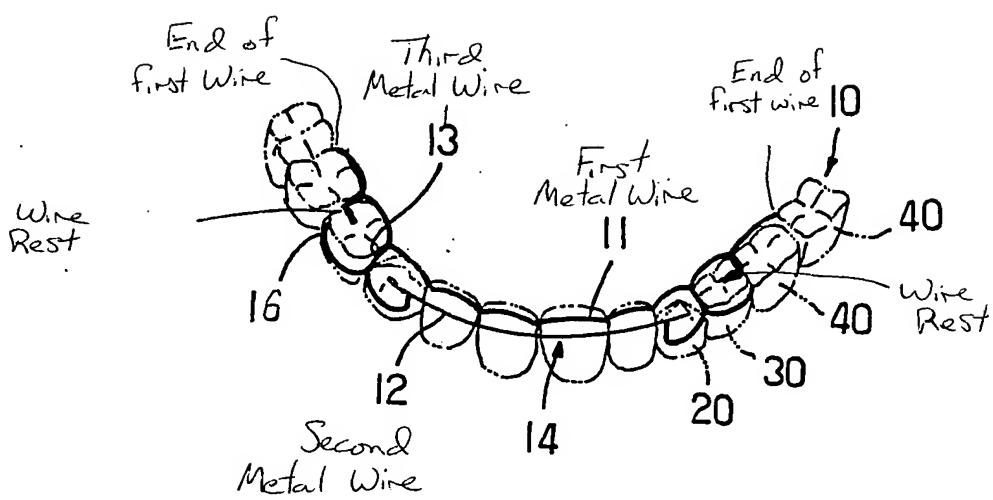
9. The orthodontic wire retainer of claim 8, wherein said second wire rest has a second section attached to said first section and extending toward said third wire.

10. The orthodontic wire retainer of claim 7, wherein said second wire rest is L-shaped.



## EVIDENCE APPENDIX

BEST AVAILABLE COPY



**RELATED PROCEEDINGS APPENDIX**

None